FLATHEAD COUNTY PLANNING BOARD MINUTES OF THE MEETING MAY 17, 2006

CALL TO ORDER

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Charles Lapp, Don Hines, Kathy Robertson, Jeff Larsen, Gene Dziza, Randy Toavs, Kim Fleming, and Frank DeKort. Gordon Cross had an excused absence. Kirsten Holland, Traci Sears-Tull, and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 55 people in the audience.

GUEST SPEAKER Diana Blend: Long Range Planning Task Force update.

APPROVAL OF MINUTES

Robertson made a motion seconded by DeKort to approve the April 12, 2006 meeting minutes. The motion was carried by quorum.

PUBLIC COMMENT

None.

PUBLIC REVIEW

Jeff Larsen reviewed the public hearing process for the public.

ZONE CHANGE/ TREWEEK FZC 06-03 A Zone Change request in the Evergreen and Vicinity Zoning District by Treweek Family Partnership, from R-1 (Suburban Residential) to B-2 (General Business). The property is located off LaSalle Road, and contains 6.224 acres.

Jeff Larsen recused himself; Dziza presided during this proposal.

STAFF REPORT Traci Sears-Tull reviewed Staff Report FZC 06-03 for the Board.

APPLICANT Greg Stevens, 31 Lower Valley Rd, represented the applicant.

AGENCIES None present.

PUBLIC COMMENT

<u>Fred Ricketts</u>, 17 1st Ave East Kalispell, supported this zone change. He said it allow for affordable business in the area.

<u>Bill Paullin</u>, 241 Sky Ranch Lane *(co-owner of a neighboring property)*, was in favor and concurred with the previous speaker.

STAFF REBUTTAL None.

APPLICANT REBUTTAL

None.

MOTION

Robertson made a motion seconded by DeKort to adopt Staff Report FZC 06-03 and recommended approval to the County Commissioners.

BOARD DISCUSSION None.

ROLL CALL

On a roll call vote the motion passed unanimously.

PRELIMINARY PLAT/ GOOSE MEADOWS FPP 06-10 A request by Kathryn B. Edwards for Preliminary Plat approval of the Resubdivision of Lot 6 of Goose Meadows, a four (4) lot single-family residential subdivision on 29.95 acres. All lots in the subdivision are proposed to share two (2) well water systems and have individual septic systems. The property is located off Farm Road.

STAFF REPORT

Traci Sears-Tull reviewed Staff Report FPP 06-10 for the Board.

BOARD QUESTIONS Larsen asked about 3 comment letters mentioned in the Staff Report that were not included in the Board packets.

Sears-Tull handed each Board member a packet of letters.

APPLICANT

Rick Breckenridge, of Montana Mapping & Associates, represented the applicant.

Robertson asked about special considerations taken in jurisdictional wetland areas.

Breckenridge said he turned in a packet of information from the Army Corp. of Engineers and continued to address her question.

Robertson asked about structural setbacks.

Breckenridge said the 100-ft setback would be put in place to protect the bank.

Robertson asked if Mr. Abel was the one who split other lots of Goose Meadows.

Breckenridge showed the Board a map.

Robertson asked about the configuration of lots.

Breckenridge addressed dust issues and said the issue already exists; he didn't think his client should be solely responsible for paving to mitigate the dust.

AGENCIES

None.

PUBLIC COMMENT

Russ Crowder, of American Dream Montana, was concerned with Charlie Johnson's comment letter. He talked about impact fees and asked the Board not to impose the condition related to the roads.

STAFF REBUTTAL

Staff said no neighborhood comments were received.

APPLICANT REBUTTAL

None.

MAIN MOTION

Robertson made a motion seconded by Lapp to adopt Staff Report FPP 06-10 as findings of fact as amended and recommended approval to the County Commissioners.

MOTION Condition #17

Hines made a motion seconded by Fleming to add Condition #17 to require the applicant to pave the portion of Farm Rd that runs along the West side of the property.

ROLL CALL Condition #17

On a roll call vote the motion passed 7-1 with Larsen dissenting.

BOARD DISCUSSION

Fleming said dust abatement is a serious problem. She said places other than Flathead County require developers to take care of the road problems, which helps alleviate public costs.

Dziza said the County needs some kind of a system in regards to paving.

MOTION Condition #12g

Robertson made a motion seconded by DeKort to add Condition #12g to require wording on the face of the plat to reflect the 100-ft residential setback from jurisdictional wetlands.

BOARD DISCUSSION

Lapp asked Breckenridge about the setback.

Breckenridge wanted it to read residential setback to allow people to use the area for a shed, garden, barn, etc.

Robertson asked the applicant about the topography from the slough to the bank.

Breckenridge said it's about 4-6 feet. They want to prevent it from slumping so they don't want activity going on that would impact the stability; that's why they added the protective measure.

Sears-Tull encouraged the Board to include the phrase "any other outbuilding," for added protection, since this is in an unzoned area. She said someone could build a garage with an apartment up top and runoff would be a concern.

Fleming talked about having fences, yards, buildings, etc. in the 100-ft setback and said allowing that would defeat the purpose.

ROLL CALL Condition #12g On a roll call vote the motion passed unanimously.

MAIN MOTION ROLL CALL

On a roll call vote the motion passed unanimously.

ZONE CHANGE/ DAN HOGAN FZC 06-06 A Zone Change request in the Lakeside Zoning District by Dan Hogan, from R-2 (One-Family Limited Residential), to R-4 (Two-Family Limited Residential). The property is Tract 4E in Section 6, Township 26 North,

Range 20 West, and is located at 201 Caroline Point Road.

STAFF REPORT Kirsten I

Kirsten Holland reviewed Staff Report FZC 06-06 for the Board.

BOARD QUESTIONS Larsen asked if this property is in the jurisdiction of the Lakeside Neighborhood Plan.

Staff said yes.

Lapp asked about water supply.

Hines said Cherry Hill has a private water system.

APPLICANT

Dan Hogan, 165 Haywire Gulch Rd, said they do have their own private water system. He met with the Homeowner's Association a year ago and they were in favor of the plan.

AGENCIES

None present.

PUBLIC COMMENT None.

STAFF REBUTTAL None.

APPLICANT REBUTTAL

None.

MAIN MOTION

Dziza made a motion seconded by DeKort to adopt Staff Report FZC 06-06 as findings of fact and recommended approval to the County Commissioners.

BOARD DISCUSSION

Lapp said he was there when the Lakeside Council reviewed this project and said everyone was in favor.

MAIN MOTION ROLL CALL

On a roll call vote the motion passed unanimously.

PRELIMINARY PLAT/ HARMONY HOMESITES FPP 05-79 A request by Kelly (Keys) Sorg for Preliminary Plat approval of Harmony Homesites, a nineteen (19) lot (fifteen single-family residential and four townhome lots) subdivision on 4.87 acres. All lots in the subdivision are proposed to have public water and sewer systems. The property is located off Harmony Road in Evergreen.

STAFF REPORT

Kirsten Holland reviewed Staff Report FPP 05-79 for the Board.

BOARD QUESTIONS Robertson asked if the removal of lot #9 would cause a revision of parkland dedication.

Staff said the requirement would decrease a little.

Fleming asked about the 60 ft easement.

APPLICANT

Erica Wirtala, of Sands Surveying, said this plan is in the RSID district for Evergreen and is in compliance with the Master Plan. She talked about right-of-way width and road improvements and said they can accommodate the 60-foot right-of-way.

Toavs asked about the houses on the plat being in the right-of-way.

Wirtala clarified.

Staff wanted to add a standard condition for an internal subdivision road.

AGENCIES

None present.

PUBLIC COMMENT

None.

STAFF REBUTTAL None.

APPLICANT REBUTTAL

None.

MAIN MOTION

DeKort made a motion seconded by Robertson to adopt Staff Report FPP 05-79 as findings of fact as amended and recommended approval to the County Commissioners.

MOTION
Condition #9

Fleming made a motion seconded by Dziza to amend condition #9 to require the 60-ft right-of-way to be noted on the face of the final plat.

ROLL CALL
Condition #9

On a roll call vote the motion passed unanimously.

BOARD DISCUSSION

Harris (Staff) talked about access and connectivity to Lot 17 of Hoiland-Day Acres.

MOTION Condition #14

Fleming made a motion seconded by DeKort to add Condition #14 to require the applicant to dedicate a 15-ft bike path easement along Harmony Rd.

ROLL CALL Condition #14

On a roll call vote the motion passed unanimously.

MOTION Condition #15

Robertson made a motion seconded by DeKort to add Condition #15 to require internal subdivision roads be paved according to County standards.

ROLL CALL Condition #15

On a roll call vote the motion passed unanimously.

PRELIMINARY PLAT/ COLE RANCH EST FPP 06-12

A request by Kenneth E. Klundt for Preliminary Plat approval of the Amended Plat of Lot 5, Cole Ranch Estates, a two (2) lot single-family residential subdivision on 13.13 acres. Both lots in the subdivision are proposed to have individual water and septic systems. The property is located at 536 Rodeo Drive, northeast of Kalispell off Hodgson Road.

STAFF REPORT

Kirsten Holland reviewed Staff Report FPP 06-12 for the Board.

BOARD QUESTIONS

Lapp asked Staff a question about the C.O.S. that was handed out.

Toavs asked about the boundary line adjustment in relation to final plat.

Dziza asked about the advertisement of this subdivision.

APPLICANT

Joe Kauffman, of Big Sky Surveying, represented the applicant. He thanked Staff for doing an excellent job of writing the Staff Report. He said most of the people, who had concerns, had issues with the boundary line adjustment.

AGENCY

None present; two letters were received.

PUBLIC COMMENT

<u>Wally Wilkinson</u>, shed some light on the history of the property and the reason for the boundary line adjustment.

<u>Twila Klundt</u>, 535 Rodeo Drive, thanked everyone for doing a good job of explaining the history. She said the additional lot would someday be for her son. It was always their intention to divide this property once.

<u>Elaine Sather</u>, 530 Rodeo Drive, was opposed to this further subdivision.

Holland (Staff) said the situation is unfortunate but they're doing the best they can with the situation at hand.

STAFF REBUTTAL

None.

APPLICANT REBUTTAL

Kauffman said if the Board has problem with lot size they would be willing to increase the lot size to 5-acres.

MAIN MOTION

Dziza made a motion seconded by Lapp to adopt Staff Report FPP 06-12 as findings of fact as amended and recommended approval to the County Commissioners.

BOARD DISCUSSION

Dziza said perhaps the intentions were for something else but the applicant understood they could subdivide. He talked about following the letter of the law and that's why he made the motion.

Robertson said a 3-acre lot in an area with larger lots is inappropriate. She said increasing it to a 5-acre lot could be considered.

Holland (Staff) talked about having a 5-acre lot in the area and said that could set a precedent for the smaller lot size.

Toavs asked about the driveway location in regards to making the additional lot 5-acres in size.

Fleming agreed with Robertson about the small lot size being inappropriate.

The Board discussed access and changing the lot size. They talked about the covenants and said the applicants bought the property with the understanding they could subdivide.

MOTION Condition #12

Robertson made a motion seconded by Toavs to add condition #12 to read: Lot 5B will be reconfigured to contain five or more acres.

ROLL CALL Condition #12

On a roll call vote the motion passed unanimously.

MAIN MOTION ROLL CALL

On a roll call vote the motion passed unanimously.

TEXT AMD/ F.C.Q.G. FZTA 05-04

A request to amend the text of the Flathead County Zoning Regulations and the West Valley Neighborhood Plan by Flathead Citizens for Quality Growth. Specifically, the applicants wish to clarify the definition of gravel extraction/gravel operations, and limit the number of permits per landowner.

STAFF REPORT

Kirsten Holland reviewed Staff Report FZTA 05-04 for the Board.

BOARD QUESTIONS

Lapp asked Staff a question about the Gravel Advisory Committee and what affect this text amendment would have.

Holland (Staff) briefed the Board on what exactly West Valley Zoning is.

Fleming asked about Conditional Use Permits and what this proposed text amendment means.

Holland (Staff) explained that the lack of a definition has caused confusion for everyone and should be defined. She reviewed the vote of the WVLUAC and what their additions were.

Dziza asked...

Staff said everything would have to be contained within 10 acres.

Harris (Staff) said reclamation issues are dealt with through MT DEQ.

DeKort asked about performance standards. He read what the WVLUC put in their minutes regarding how many conditional use permits they could have.

Staff said they could have one permit per 320 acres.

APPLICANT

Steve Vandehay explained the intent of their request. They would like closure and to find a clear definition. He talked about the contamination of the aquifer and the nitrate rates. He said the shallow aquifer is polluted and the second one is now at risk.

Robertson asked how extraction affects the nitrate levels.

Vandehay said he wouldn't imply it does.

AGENCIES

None.

PUBLIC COMMENT

<u>Mark Schwager</u> was in favor of this proposal. He would like to see definitions and clarifications and asked the Board for approval.

<u>Charlene Iannucci</u>, 3080 Farm to Market Rd, was in favor of this proposal. She said it would tighten up the definition and would make life easier for everyone.

Meliss Clark, 1190 Clark Dr, was in favor and talked about the road situation. She talked about the size of the pit and its impact on neighboring property.

<u>Kim Davis</u>, 1230 Rhodes Draw, talked about the original plan written 10 years ago. He said simplicity has led to problems but the proposal tonight is a compromise to alleviate some concerns.

<u>Susan Schwager</u> agreed with Mr. Davis. She said the W. Valley plan would be more valuable with a definition.

PUBLIC COMMENT CONTINUED...

Greg Stevens, 31 Lower Valley Rd, spoke in opposition. He said there is a definition of gravel extraction in Montana law that should be used today. He read some excerpts from a Supreme Court ruling and said the Board should consider this when dealing with the general welfare of people in Flathead County, not just the 40-some people in the room. He said the cost of gravel has increased tremendously over the past year and could affect the cost of affordable housing. He said this amendment would affect Flathead County in its entirety.

<u>Clara LaChappelle</u>, 3580 Farm to Market Rd, displayed maps for the Board and explained the number of homes in a certain radius of existing gravel pits. She said there are 266 gravel pits in Flathead County. She said, at one point, the nitrates in her water were more than 5 times the safe limit and when she drilled a new well that too was contaminated.

Kerry Hagleberg doesn't live in Flathead County but was at the meeting on behalf of people who do. He talked about the need for road improvements and the substandard roads that currently exist in Flathead County. He said construction requires sand and gravel and the farther it has to be transported the more it costs. He agreed with Mr. Stevens in regard to the current definition of gravel extraction defined by Montana Law. He said the DEQ is responsible for evaluating nitrate levels. He asked the Board to look at the "big picture" issues with this amendment.

Tom Clark, 3070 Farm to Market Rd, was in favor. He said it would create some peace in the West Valley area. He said people aren't opposed to gravel pits in general but are more concerned with the size. He said this amendment is fair to everyone. He said there are 5000 people in the W Valley area and they don't want to create an industrial zone; they want to create a level playing field.

<u>Wally Wilkinson</u>, member of the Gravel Advisory Committee, shed some light on their meetings and their direction. He is opposed to this text amendment and said it's premature; he said the cart is going before the horse.

<u>Monica Jungster</u>, from West Glacier, talked about the DEQ and the things that should "drive" the events in this valley. She is concerned with the pollution and nitrates and said there are many unanswered questions.

<u>Linda Tutvedt</u>, 2335 W. Valley Drive, owns a gravel pit. She thinks the intent of this amendment is to eliminate the gravel pit industry in West Valley. She said farming is the largest industry in Montana and in the West Valley area. She said there needs to be rules, guidelines, and a fair Master Plan that attends to the needs of everyone in Flathead County. She said she believes in "free enterprise" and said if people have a problem with gravel pits they should boycott. She said the issue

PUBLIC COMMENT CONTINUED...

is growth not gravel and people aren't considering the consequences of their behavior.

<u>Bill Breen</u>, 330 Mountain View Rd, was in favor and sent a letter to that regard. He hoped the amendment would put the matter of clarification to rest. He talked about the West Valley plan and the original intent. He talked about new development in West Valley and said it's all residential. He said West Valley is truly a residential area.

<u>Phil Lopresto</u>, 413 Lost Creek Dr, lives approximately 1-½ miles away from 2 gravel pits. He said the residents don't want industrial pits in the area. He said people have a right to do what they want with their land but people also have a right to live safely. He pointed out that the Gravel Committee is composed 90% of gravel people.

Irene Lopresto, 415 Lost Creek Dr, was in favor.

Brett Fisher, 418 1st Street E, is the chairman of Gravel Advisory Committee. He said the consensus of the committee is that 10-acres is too small for a gravel pit. He said this amendment would be cause for smaller pits and the breakup of larger pits. He worked with the DEQ and MT DNRC and talked about the Lost Creek Fan.

Russ Crowder, of American Dream Montana, said this amendment is wrong and at the wrong time. He talked about the definition of gravel extraction according to Montana law. He said people have raised valid concerns but wanted to point out what a Conditional Use is. He talked about the 11th amendment of the constitution regarding equality. He talked about public, health, safety, and general welfare of the community and recommended denial of this amendment.

Bruce Tutvedt, 2335 W Valley Dr, read from the letter he submitted, for the record, regarding this amendment. He talked about the compromises that have been made and read several definitions. He talked about the Master Plan and said about 1/3 of gravel pits are in the West Valley area. He talked about the Gravel Committee and the upcoming amendment request. He said the issue is whether West Valley is residential or not. He said this amendment would strike his property rights. He talked about traffic issues and said you need gravel pits near demand; closer is better. He quoted DEQ regarding water quality, which said sand and gravel are environmentally inert.

Angie Clark, 3070 Farm to Market Rd, was in favor of the text amendment; she said it's a compromise. She thinks they have the right to clean air, water, and quality of life. She talked about the proximity of her property to three gravel pits and said it does negatively affect her property value.

<u>Laurie Harrington</u>, 975 Rhodes Draw, asked the Board to consider this amendment.

PUBLIC COMMENT CONTINUED...

<u>Rita Peiffer</u>, 1489 Church Drive, talked about the West Valley plan. She talked about industrial uses and said they're not allowed in the plan. She talked about the water issues and said gravel alone may keep the water clean but asphalt won't.

<u>Dick Aemisegger</u>, 1970 Four Mile Drive, thanked Staff for their public service. He talked about State law and West Valley being a residential area. He said the debate is about planning and what's appropriate. He said there's an explosion of development north of town and said it's not a place for industrial uses. He said the road systems are grossly undeveloped. He talked about the West Valley plan and the intent of the term "gravel extraction".

Gary Krueger, 805 Church Drive, said he wasn't asked for input in this amendment and it isn't a compromise. He went to a meeting, uninvited, and didn't feel welcome. He thinks they are trying to rid gravel extraction from the West Valley area and said the only gravel pits between Kalispell and Olney are in West Valley; you have to use the available resources.

Peter Byrnes, 1025 Dun Movin Lane, asked the Board not to support industrial activity until infrastructure and roads are in place.

<u>Joe Brana</u>, 322 Rhodes Draw, said there's been a lot of compromise. He said they don't want big industrial uses in a residential area and said health, welfare, and quality of life counts for something. Increased industrial uses would decrease the quality of life. He is in favor of this amendment.

<u>Mayre Flowers</u>, of CFBF, expressed concerns about this amendment. She said the changes requested by the applicant tonight address a lot of those concerns. She is concerned about the definition of "landowner" and said it needs to be clarified. She said gravel pits need to remain a conditional use. She said noise level needs to be considered. She said developing baseline data should have been done as the first step in the Growth Policy process because it's critical information.

<u>Art Weaver</u>, 2865 Farm to Market Rd, said he's lived there for 20 years. He talked about economics and the affect of these uses on property values. He said roads need to be fixed and there are already traffic problems in the area.

Ginny Coyle, 120 Marvins Way, is in favor.

Julie Byrons, 1025 Dun Movin Lane, is in favor.

STAFF REBUTTAL

Harris talked about the purpose of the Gravel Committee. He talked about the text amendment, which stands today, in the zoning regulations.

Holland talked about Montana law and read a portion of Judge Stadler's decision regarding a particular lawsuit. She said it's important to look at the community as a whole and thinks some decision needs to be made.

Harris talked about a lawsuit against Flathead County and the processing of this application in the Planning Office.

APPLICANT REBUTTAL

He said this is a beginning point to solve this issue and said it's a compromise. He said this is a controlled procedural way to control gravel extraction and protect the West Valley residents.

MAIN MOTION

Dziza made a motion seconded by Fleming to adopt Staff Report FZTA 05-04 and recommended <u>denial</u> to the Flathead County Commissioners.

BOARD DISCUSSION

Dziza talked about issues he has with transporting gravel a long distance and doesn't see how that tailors to health and safety of the public. He didn't understand the 320-acre parcel size and doesn't think that necessarily constitutes an appropriate place for a gravel pit. He talked about nitrates and said that would be an issue having more to do with farming and houses.

Robertson said a tremendous amount of work needs to be done to help protect the people in that area. She recognizes the West Valley area as being one of the best places to extract gravel.

Toavs asked if the Board would see anything from the gravel advisory committee regarding the West Valley zone.

Harris (Staff) said that what the Board will see applies to AG 20, 40, and 80 zones.

Lapp asked how it would apply to other zoning districts.

Harris (Staff) explained that other districts use different County zoning designations, unlike West Valley. He read a portion of a previous text amendment, discussed by the Gravel Committee, for clarification.

Holland (Staff) clarified the West Valley zone and what the overlay means.

Fleming, talked about the term "landowner," the 320-acre land limitation, conditional use permits, and several other concerns. She said the amendment doesn't prohibit gravel; it suggests more, but smaller, pits are preferred.

Robertson clarified her understanding of the 10-acre active pit on a 320-acre parcel and the reclamation process.

Larsen said you could have a more appropriate location for a gravel pit that's less than 320-acres in size. You have to look at all the different constraints. He doesn't feel that either "side" is satisfied with this amendment. He doesn't understand how having to do haul gravel elsewhere would lessen traffic congestion.

Lapp agreed with what Larsen said. He didn't think it mattered how big a pit will be; people will show up to protest. He understood, after Staff's explanation, the significance of West Valley zoning and that it doesn't incorporate other zoning designations as other zoned areas do. He said the amendment needs a lot more work and the intent of it is to rid the West Valley area of gravel pits. He said gravel has to be taken out where the gravel is.

DeKort said there should be local control. He thinks the West Valley neighborhood needs to come to grips with this issue. He said the plan needs a lot more work.

Larsen said Mayre Flowers had a good point and thinks we need to know where gravel exists in Flathead County.

DeKort asked what the result would be of denying it.

Harris (Staff) told the Board what their options were.

Lapp asked if the applicants would be able to revise the plan and come back with it if the Board were to table it.

The Board and Staff discussed their options.

The applicant said it took them a year to get here and would like to see something done instead of throwing it out. He asked the Board to take the time to change what they don't like.

The Board and Staff continued to discuss their best option.

MAIN MOTION ROLL CALL

On a roll call vote the motion passed 5-3 with DeKort, Robertson, and Hines dissenting.

OLD BUSINESS None.

NEW BUSINESS

Hines brought up the previous Planning Board meeting when he was denied the right to speak during Old Business. He talked about his actions during a prior situation.

Dziza talked about the previous public meeting and the procedure that was followed.

Lapp talked about public comment.

Hines said he gets acknowledged at all other Boards and got it "shoved up the tailpipe" when he tried to talk in front of this Board during a previous meeting. He said the Board missed the opportunity to hear something important.

Harris (Staff) let the Board know they're pretty much well booked for June.

Fleming said she would miss the June 14th and 21st meetings but would like to pick up her packets in the office anyways.

ADJOURNMENT

The meeting was adjourned at approximately 10:45 p.m. on a motion by DeKort seconded by Fleming. The next meeting will be held on May 24, 2006 @ 6 p.m.

Jeff Larsen, President	Jill Goodnough, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 6/21/06